

FACT

FOUNDATION FOR
ACCOUNTABILITY
AND CIVIC TRUST

May 18, 2014

Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, D.C. 20463

MUR # 6940

OFFICE
MAY 20 2014
FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Re: Complaint against Correct the Record PAC

Dear Counsel,

Pursuant to 52 U.S.C. § 30109(a)(1), the Foundation for Accountability and Civic Trust (FACT) submits this complaint with the Federal Election Commission (FEC or Commission) to address violations of the Federal Election Campaign Act of 1971 as amended (FECA) and Commission Regulations by Correct the Record PAC (CRT PAC), 455 Massachusetts Avenue Suite 650, Washington, DC 20001. The information contained in this complaint is based upon information and belief, statements issued by the CRT PAC, media reports, and public records. According to its own statements, CRT PAC intends to register as an independent expenditure only committee (Super PAC) or a *Carey*-PAC ("hybrid PAC") and directly coordinate with presidential candidate Hillary Clinton. This type of activity is directly contrary to the FECA and Commission regulations, which provide that neither a Super PAC nor the non-contribution account of a hybrid PAC can coordinate with or make donations to federal candidates. The Commission must immediately investigate and enforce the law. *See* 52 U.S.C. § 30109(a)(2); 11 C.F.R. § 111.4(a).

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On May 12, 2015, CTR PAC announced that, using unlimited personal and corporate contributions, it would fund a rapid response and research team to support Hillary Clinton's candidacy in full coordination with the Clinton Campaign. Indeed, CTR PAC declares this, along with an attempted justification for its plan in its press release: "Correct The Record, though a SuperPac, will not be engaged in paid media and thus will be allowed to coordinate with campaigns and Party Committees." CTR PAC, Press Release May 12, 2015 (Attached as Exhibit A); *see also*, Rebecca Ballhaus, *Pro-Clinton Group Sets Novel Strategy*, The Wall Street Journal, May 12, 2015 at 6:30pm (Attached as Exhibit B); Matea Gold, *How A SuperPAC Plans To Coordinate Directly With Hillary Clinton's Campaign*, The Washington Post, May 12, 2015 (Attached as Exhibit C); Gabriel Debenedetti, *Hillary Clinton backers defend link to PAC*, Politico, May 15, 2015 (Attached as Exhibit E).

In CTR PAC's own words:

- CTR PAC's mission is to "support [] Hillary Clinton's candidacy for President, [by] aggressively responding to false attacks and misstatements of the Secretary's exemplary record." CTR PAC, Press Release May 12, 2015 (Exhibit A).
- "*Correct The Record is a strategic research and rapid response team designed to defend Hillary Clinton from right-wind, baseless attacks.*" *Id.* (emphasis in original).
- CTR PAC expressly describes the services it is providing or plans to provide to the Clinton Campaign as those of "a political research and communications war room." Jennifer Epstein, *Is New Hillary Clinton Super PAC Pushing Legal Boundaries?; A new group will raise big-dollar donations to help Democratic*

front-runner, Bloomberg Politics, May 12, 2015 at 8:28pm (Attached as Exhibit D).

- “This is actually very clear cut and the FEC has repeatedly dismissed allegation regarding coordination of Internet communications,” according to Adreienne Watson, CTR PAC Communications Director. Gabriel Debenedetti, *Hillary Clinton backers defend link to PAC*, Politico, May 15, 2015 (Exhibit E).

Additionally, CTR PAC’s spokeswoman also stated that, despite filing with the FEC as an independent expenditure only committee, CTR PAC would make “no independent expenditures,” and as such, there were “no restrictions on its ability to coordinate with Mrs. Clinton’s campaign.” Rebecca Ballhaus, *Pro-Clinton Group Sets Novel Strategy*, The Wall Street Journal, May 12, 2015 at 6:30pm (Exhibit B). On Friday, May 15, CTR PAC told Politico that it would set up a “non-contribution account.” Gabriel Debenedetti, *Hillary Clinton backers defend link to PAC*, Politico, May 15, 2015 (Exhibit E).

It is upon these facts, further detailed below, that we allege the following violations of campaign finance law:

- (1) CTR PAC has made, or is planning to make, illegal in-kind contributions to the Clinton Campaign in the form of funding a research and rapid reaction team directly benefitting the Clinton Campaign in excess of applicable limits.
- (2) CTR PAC does not qualify as a Super PAC, and has accepted or is planning to accept contributions outside FECA’s source and amount limits and restrictions to standard non-connected, non-multicandidate, federal committees, or as a hybrid PAC that will exceed the in-kind contribution limits applicable to the

contribution account or the prohibitions on in-kind contribution limits from its non-contribution account. 52 U.S.C. §§ 30116, 30118.

- (3) CTR PAC has, or is planning to make, a false certification to the Federal Election Commission in violation of 52 USC § 30109.

LEGAL AND FACTUAL ANALYSIS

I. CTR PAC's Providing the Clinton Campaign with a Fully Funded and Coordinated Research and Rapid Response Team is an Illegal In-Kind Contribution.

By its own statements, CTR PAC acknowledges that its actions will be undertaken in full coordination with the Clinton Campaign. See CTR PAC, Press Release May 12, 2015 (Exhibit A). CTR PAC's apparent justification for this is that because all communications issued from CTR PAC flowing from this coordinated activity will take place online, these activities fall outside the reach of the Commission's "coordinated communications" regulations, and as such, they are beyond the scope of campaign finance regulation. Matea Gold, *How A SuperPAC Plans To Coordinate Directly With Hillary Clinton's Campaign*, The Washington Post, May 12, 2015 (Exhibit C). More recently, Politico reported that "the Clinton camp's reasons for wishing to have Correct the Record by its side as an independent group with which it can coordinate . . . takes much of the burden off of the Democratic National Committee." Gabriel Debenedetti, *Hillary Clinton backers defend link to PAC*, Politico, May 15, 2015 (Exhibit E). CTR PAC's reliance on the coordinated communications regime, however, is misplaced.

The relevant question is not whether CTR PAC engaged in a "coordinated communication" with the Clinton Campaign. Rather, the relevant question is whether CTR PAC's funding an entire research and rapid response staff working in full coordination with

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the Clinton Campaign is something of value to the Clinton Campaign, and as such, constitutes an illegal in-kind contribution. It is beyond doubt that it does. CTR PAC could save space in their press releases, as there is a simpler term for a “fully coordinated research and rapid response team”—that term is “campaign staff.” As Politico reported, this “takes much of the burden off of the Democratic National Committee.” Gabriel Debenedetti, *Hillary Clinton backers defend link to PAC*, Politico, May 15, 2015 (Exhibit E).

By definition, political committees exist to influence a federal election and Super PACs are no different in this regard. 11 C.F.R. § 100.5. The Supreme Court in *Citizens United v. FEC*, the U.S. Court of Appeals for the District of Columbia in *SpeechNow v. FEC*, and the Commission’s Common Sense Ten Advisory Opinion established the framework within which a political committee may raise and spend funds outside FECA’s source and amount limits and prohibitions. *Citizens United v. FEC*, 128 S.Ct. 876 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010); Advisory Opinion 2010-11 (Common Sense Ten). Super PACs may do so only if (1) their expenditures are made independently of any federal candidate or party committee, and (2) they do not make either direct or in-kind contributions to any federal candidate.

Consistent with this, the Commission requires Super PACs to certify the following in order to exist:

This committee intends to make independent expenditures, and consistent with the U.S. Court of Appeals for the District of Columbia Circuit decision in *SpeechNow v. FEC*, it therefore intends to raise funds in unlimited amounts. This committee will not use those funds to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees.

FEC Form 1, Statement of Organization—Unlimited Contributions. Nor may a

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presidential candidate's principal campaign committee accept any contribution from a Super PAC, as it is prohibited from accepting contributions outside the source and amount restrictions of federal law. 52 U.S.C. § 30116. Even in the case of standard non-connected, non-multicandidate political committees (PAC), which are bound by FECA's source and amount restrictions, candidate committees may only accept \$2,700 per election in contributions, including in-kind contributions. 11 C.F.R. § 110.1. If CTR PAC is established as a hybrid PAC, its contribution account will be subject to the \$2,700 per election limit, and its non-contribution account will be subject to the standard Super PAC rules.

The term "contribution" is defined in FECA to mean "any gift subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i); *see also* 11 C.F.R. §§ 100.51-100.56. Included in this definition are "in-kind" contributions of goods or services offered for free or less than the usual charge. 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1); *see, e.g.*, MUR 5366 (Tab Turner/Edwards for President) (finding in part that staff time constituted an in-kind contribution to a presidential campaign).¹

The term "expenditure" is defined in FECA to mean "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for federal office." 52 U.S.C. § 30101(9)(A)(i); *see also* 11 C.F.R. §§ 100.110-100.114.

¹ The FEC concluded in MUR 5366 that the FEC's "investigation ... show[ed] that from February through April 2003, [Turner's law firm Administrator], acting on Turner's instructions, served as a *de facto* campaign employee, with her salary being paid by Turner & Associates." MUR 5366, General Counsel's Report #4, 20.

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The Commission has dealt with similar questions before. In MUR 5366 the Commission reached settlements with Tab Turner and the John Edwards' presidential campaign which included violations for use of a law firm's staff to plan a fundraiser. This matter did not involve any coordinated communications under 11 C.F.R. § 109.21. Rather, the Commission concluded that the use of corporate staff time to coordinate activities with a campaign constituted a direct and impermissible in-kind contribution to the campaign.

We also draw the Commission's attention to case of *United States v. Harber* (E.D.V.A. 1:14-cr-00373, filed November 6, 2014) where the Department of Justice is proceeding to sentencing in June of 2015 after a criminal guilty plea by a congressional campaign manager who coordinated spending with a Super PAC. The criminal information in that case focused on the making of "expenditure contributions" and did not tie the criminal activity to any specific public communication that would have met the coordinated communication definitions found at 11 C.F.R. § 109.21.

CTR PAC is a political committee that has stated it exists to support Hillary Clinton's candidacy. CTR PAC is planning to provide the Clinton Campaign with a "rapid response and research team" that functions in close coordination with the Clinton Campaign. Based on published reports and their own statements, CTR PAC's services to the Clinton Campaign include, but are not limited to, personnel, equipment, research, and other tangible products produced and shared with the campaign, as well as office space.

There is no requirement, as CTR PAC seems to assert, that an expenditure be tied to a "coordinated communication" before it may become an in-kind contribution. There is no "exemption" as CTR PAC asserts in the face of the clear text of the regulation, for *compensated* internet activity and the provision of staff by a Super PAC or hybrid PAC to

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a candidate committee. 11 C.F.R. § 100.94. For CTR PAC to claim, as it must, that funding the Clinton Campaign's research and rapid response team provides nothing of value to the Clinton Campaign is absurd. Under CTR PAC's logic, a corporation would be allowed to give a campaign fully coordinated use of its in-house research and communications team, so long as whatever that staff did was distributed online. Put differently, CTR PAC reasons that MUR 5366 and the definition of direct in-kind contribution do not exist.

The sheer ridiculousness of this position is illustrated by none other than Brad Woodhouse, CTR PAC's President. Mr. Woodhouse just filed a complaint against HarperCollins Publishers and the author of *Clinton Cash* for simply providing a briefing to a Senator serving on the Senate Foreign Relations Committee about the content of the author's book about foreign governments donating vast amounts to the Clinton Foundation while Hillary Clinton served as Secretary of State. See ADLF Files Complaint on Potential Paul Violation of Federal Law, American Democracy Legal Fund Press Release, May 12, 2015, available at <http://americandemocracy.org/adlf-files-complaint-on-potential-paul-violation-of-federal-law/>.

Mr. Woodhouse argues—in writing and sworn before the FEC—that simply providing an exclusive *briefing* about a book that is published and generally for sale to the public constitutes an illegal in-kind contribution. But he now argues that providing fully coordinated campaign research and rapid response services to a candidate is not an in-kind contribution, and is wholly legal under the law when funded by a Super PAC or hybrid PAC.

Neither CTR PAC's scattered public justifications for this scheme nor Mr. Woodhouse's compounding absurdity with absurdity, however, change the fact that CTR

PAC's coordinated support for the Clinton Campaign constitutes a prohibited in-kind contribution to the Clinton Campaign, regardless of whether CTR PAC is a Super PAC prohibited from contributing or a hybrid PAC prohibited from contributing more than \$2,700 from the contribution account or any amount from the independent expenditure account.

II. Correct the Record does not qualify as a Super PAC and has, or is planning to, accept illegal contributions.

CTR PAC publicly stated that it will make "no independent expenditures." CTR PAC, Press Release May 12, 2015 (Exhibit A). Instead, it will be making expenditures in full coordination with the Clinton Campaign. In accordance with the FECA and applicable regulations, a political committee that coordinates activities with candidate committees and makes in-kind contributions is not a Super PAC, but rather is a traditional PAC subject to the \$5,000 per calendar year per individual limit on contributions to the PAC. 11 C.F.R. § 110.1. Such committees are also prohibited from accepting corporate contributions. 52 U.S.C. § 30118.

Further, as a non-multicandidate PAC, CTR PAC is prohibited from making a contribution in excess of \$2,700 per election to a federal candidate. 52 U.S.C. § 30116; 11 C.F.R. § 110.2. Even if CTR PAC forms as a hybrid PAC and makes these expenditures out of its contribution account only, the staff and vendor expenses will quickly exceed the permissible \$2,700 limit.

CTR PAC has publicly announced its plans to violate both FECA's limits and prohibitions on contributions it may accept, as well as the limits on contributions it may make to federal candidates.

III. Correct the Record has or is planning to make a false certification to the Federal Election Commission.

Pursuant to 52 U.S.C. § 30109, providing false information to the Commission is a violation of law. It appears that CTR PAC intends to certify to the Commission that it is a Super PAC operating pursuant to *SpeechNow*, and that it will make only independent expenditures and refrain from making direct or in-kind contributions to candidates and candidate committees. Instead, while CTR PAC appears intent on submitting this certification, its whole purpose for existence appears to be the provision of direct in-kind contributions to a single candidate committee using funds raised in unlimited amounts from individuals and corporations. Regardless, CTR PAC's public statements regarding its operations directly contradict the certification it has or will soon file. Even if CTR PAC files as a hybrid PAC, this certification is no going to be honored with respect to the non-contribution account. This appears to be in direct violation of the FECA, and it appears that CTR PAC intends to knowingly and willfully violate the required certification.

CONCLUSION

These facts indicate that CTR PAC intends to knowingly and willfully engage in a plan to evade the limits, prohibitions and reporting requirements of the FECA. A Super PAC or hybrid PAC cannot be permitted to make unlimited in-kind donations to a candidate.

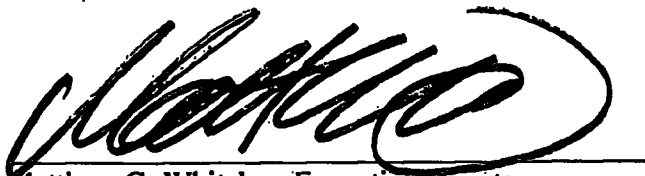
If this type of behavior were permitted, the rule prohibiting Super PACs from donating to candidates or hybrid PACs exceeding the applicable contribution limits would be eviscerated, and corporate entities, Super PACs and hybrid PACs would provide directly to candidates and their committee staff and consultants with the exception only of those

who provide paid media services. This would essentially eliminate all limitations on contributions to candidates except for the purposes of purchasing paid media advertisements. There is no justification for this scheme that passes the laugh test; CTR PAC and the Clinton Campaign are proceeding for no reason other than brazen confidence that no one will enforce the law and hold them to account.

CTR PAC's own statements and media reports identify evidence that CTR PAC is planning to make in-kind contributions from funds raised without limits from individuals and corporations on a scale not seen since prior to the adoption of the FECA. Based on all of this information, there is reason to believe CTR PAC has not and will not comply with the FECA's prohibitions on donations to candidates outside of the limitations and prohibitions of the FECA.

The Commission should conduct an immediate and thorough investigation into these allegations to determine if a massive violation of the FECA is about to occur. If it should find that these violations of the FECA are in fact about to happen, the Commission should take immediate legal actions to enjoin such a massive violations of the Act, and the Commission must then hold the Respondents accountable.

Respectfully submitted,



Matthew G. Whitaker, Executive Director
Foundation for Accountability & Civic Trust
1717 K Street NW, Suite 900
Washington, D.C. 20006

State of Iowa

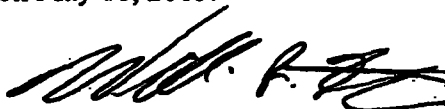
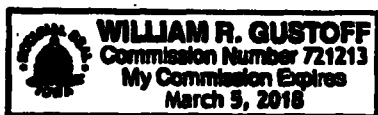
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Subscribed and sworn to before me on May 18, 2015.



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
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FOR IMMEDIATE RELEASE

Tuesday, May 12, 2015

Correct The Record Launches as New Pro-Clinton SuperPAC

Washington, DC – Correct The Record, a project of American Bridge during the lead-up to presidential primary season, is splitting off from its parent group and registering with the Federal Elections Commission as a separate SuperPAC.

Brad Woodhouse, the President of American Bridge, is taking a leave from the group to become President of Correct The Record, a political research and communications war room. Burns Strider will continue in his role as senior adviser, focusing on high-level political outreach to Democratic organizations, campaigns, electeds and surrogates in Washington DC and in key states.

Jessica Mackler, currently COO of American Bridge, will be American Bridge's new President replacing Woodhouse, David Brock, chairman of the group, announced.

"Correct The Record is a strong brand in its own right and now that Democrats are announcing their candidacies, it's the right time to separate it from American Bridge, which focuses on opposition research on Republicans running for office," Brad Woodhouse said.

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"Going forward, Correct the Record will work in support of Hillary Clinton's candidacy for President, aggressively responding to false attacks and misstatements of the Secretary's exemplary record."

"CTR has been essential over the past months. Now CTR is ready for the next phase and I'm confident it will be stronger than ever," said Burns Strider. "David Brock continues to build the best research and rapid response teams in the business."

Correct The Record, though a SuperPac, will not be engaged in paid media and thus will be allowed to coordinate with campaigns and Party Committees.

Correct The Record's board of directors will be chaired by former Maryland Lt Gov Kathleen Kennedy Townsend, who is stepping down from the American Bridge board.

Other directors include veteran political strategist James Carville; Freddy Balsera, national co-chair of the DNC's Hispanic Leadership Council; Gonzalo Barrientos, Jr., a former Democratic member of the Texas State Senate; Sandy Roberston, founder of Francisco Partners and a leading technology investor; Susie Tompkins Buell, co-founder of Esprit and a leading political donor; Scott Miller, a Denver-based philanthropist, LGBT-rights advocate and board member of the Gill Foundation, and David Brock, Correct the Record's founder.

Correct The Record is a strategic research and rapid response team designed to defend Hillary Clinton from right-wing, baseless attacks.

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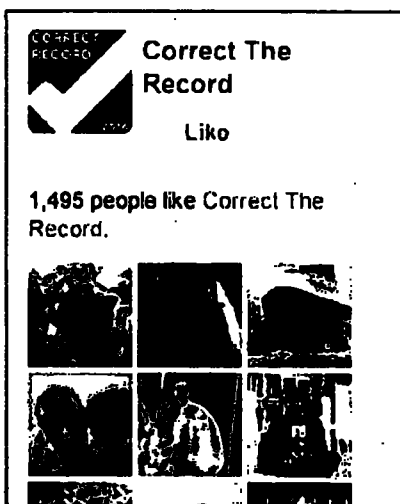
NO REPLIES TO "CORRECT THE RECORD LAUNCHES AS NEW PRO-CLINTON SUPERPAC"

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- HILLARY CLINTON

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Pro-Clinton Group Sets Novel Strategy

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By REBECCA BALLHAUS CONNECT



Democratic presidential hopeful and former U.S. Secretary of State Hillary Clinton speaks in Keene, New Hampshire in April. — Andrew Burton/Getty Images

A pro-Hillary Clinton group formerly under the umbrella of Democratic opposition research group American Bridge is set to become its own super PAC in an effort to more forcefully push back on criticism of Mrs. Clinton.

The group, Correct the Record, launched in 2013 ahead of an expected presidential bid by Mrs. Clinton. At the time, its goal was to back all Democratic presidential candidates, though its primary focus remained on Mrs. Clinton. Now, it is explicitly allying itself with the former secretary of state's presidential campaign.

The group will employ an unusual strategy in doing so. Though it plans to register as a super PAC, a spokeswoman for the group says it doesn't plan to make independent expenditures, which are ads explicitly advocating for or against a candidate. Super PACs aren't restricted in how much money they can raise and spend, but are generally barred from coordinating with candidate campaigns.

By not making independent expenditures, the group said there are no restrictions on its ability to coordinate with Mrs. Clinton's campaign. The group will spend money on activities that can legally be coordinated with a campaign, such as social media, the

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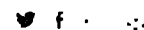
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spokeswoman said.

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It is unclear how the super PAC's interpretation of the rules will be met by the Federal Election Commission. The FEC defines super PACs as committees that can take uncapped contributions "for the purpose of financing independent expenditures and other independent political activity."

Correct the Record is expected to register with the FEC in coming days and begin operating as planned. If the FEC—a notoriously slow-moving operation—takes issue with the group's plan it could at a later point request changes in how it is registered or operates. A spokeswoman for the agency declined to comment on Correct the Record's plans.

The strategy "breaks new ground," said Kenneth Gross, former head of enforcement at the FEC. "Since this is uncharted territory it remains to be seen how this plays out," he said.

The new super PAC will be headed by Brad Woodhouse, previously the president of American Bridge, which is also a super PAC. He will be replaced by Jessica Mackler, who was previously the chief operating officer of American Bridge.

"Correct The Record is a strong brand in its own right and now that Democrats are announcing their candidacies, it's the right time to separate it from American Bridge, which focuses on opposition research," Mr. Woodhouse said. "Going forward, Correct the Record will work in support of Hillary Clinton's candidacy for president, aggressively responding to false attacks and misstatements of the secretary's exemplary record."

Burns Strider, a Clinton ally, will stay on as a senior adviser. The group's board will include Susie Tompkins Buell—who is often described as Mrs. Clinton's best friend and hosted a fundraiser for the candidate in her San Francisco home earlier in May—along with longtime Clinton strategist James Carville and David Brock, who founded the group.

The development is the latest in a series of efforts by the Clinton campaign to sharpen its response operation. Last week, Clinton campaign chairman John Podesta announced on Medium the launch of a new website called "The Briefing" to provide a "one-stop shop to provide the facts" about Mrs. Clinton's record.

The website's launch came amid a media frenzy over a book called "Clinton Cash," written by Peter Schweizer, editor-in-chief of a conservative news website. The book added fresh details to previous reporting about potential conflicts between Mrs. Clinton's charitable work with her family's foundation and her public activities as secretary of state.

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Post Politics

How a super PAC plans to coordinate directly with Hillary Clinton's campaign

By Matea Gold May 12

This post has been updated.

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Hillary Clinton's campaign plans to work in tight conjunction with an independent rapid-response group financed by unlimited donations, another novel form of political outsourcing that has emerged as a dominant practice in the 2016 presidential race.

On Tuesday, Correct the Record, a pro-Clinton rapid-response operation, announced it was splitting off from its parent American Bridge and will work in coordination with the Clinton campaign as a stand-alone super PAC. The group's move was first reported by the New York Times.

That befuddled many campaign finance experts, who noted that super PACs, by definition, are political committees that solely do independent expenditures, which cannot be coordinated with a candidate or political party. Several said the relationship between the campaign and the super PAC would test the legal limits.

But Correct the Record believes it can avoid the coordination ban by relying on a 2006 Federal Election Commission regulation that declared that content posted online for free, such as blogs, is off limits from regulation. The "Internet exemption" said that such free postings do not constitute campaign expenditures, allowing independent groups to consult with candidates about the content they post on their sites. By adopting the measure, the FEC limited its online jurisdiction to regulating paid political ads.

The rules "totally exempt individuals who engage in political activity on the Internet from the restrictions of the campaign finance laws. The exemption for individual Internet activity in the final rules is categorical and unqualified," then-FEC Chairman Michael E. Toner said at the time, according to a 2006 Washington Post story. The regulation "protects Internet activities by individuals in all forms, including e-mailing, linking, blogging, or hosting a Web site," said Toner, now a prominent Republican campaign finance attorney.

The pro-Clinton group plans to keep its activities within the bounds of the Internet exemption by disseminating information about Clinton on its Web site and through its Facebook and Twitter accounts, officials said. The group will be registered as a super PAC, but does not intend to spend any money on ads or other

expenditures that would constitute independent political activity.

"The FEC rules specifically permit some activity – in particular, activity on an organization's website, in email, and on social media – to be legally coordinated with candidates and political parties," Adrienne Watson, a spokeswoman for Correct The Record, said in a statement. "This exception has been relied upon countless times by organizations raising non-federal money. The only thing unique about Correct the Record is that it is making its contributors and expenditures public."

However, the FEC rules specify that online activities are exempted from campaign finance rules if they are conducted by "uncompensated" individuals, campaign finance lawyers noted. It is unclear how Correct the Record, whose staff will be paid, plans to navigate that restriction.

"The moment anyone is paid to engage in Internet activity it falls outside of that exemption," said Jason Torchinsky, an election law attorney who represents many conservative groups. "If you are a super PAC paying people and coordinating your activities with the campaign, you are not covered by the individual Internet exemption and are making impermissible in-kind contributions."

[Update: Correct the Record officials say they are not relying on the individual Internet exemption, but rather a related exemption in the definition of coordinated communications.]

Advocates for stronger enforcement of campaign finance rules said the group's maneuver around the coordination ban effectively circumvents the limits on how much individuals can give to candidates.

"The Internet exemption wasn't meant for a political committee to raise unlimited money in coordination with a candidate," said Larry Noble, senior counsel at the Campaign Legal Center. "It was meant for bloggers. It was not intended to be this massive operation where you are outsourcing your rapid response team."

Fred Wertheimer, president of the advocacy group Democracy 21, said "it certainly looks like this new operation will violate the Bipartisan Campaign Reform Act, which prevents an entity set up by a candidate or acting on behalf of a candidate, from raising or spending unlimited contributions, or soft money."

"In addition, if this entity is operating as a policy arm of the campaign, it will be violating the coordination laws if it raises and spends soft money, whether or not it runs ads or other public communications," he added.

The move by Correct the Record, which was founded by Clinton ally David Brock, comes as former Florida governor Jeb Bush is building his own independent infrastructure of big-money groups to bolster his expected White House run. One such organization, the nonprofit Right to Rise Policy Solutions, is currently paying the salaries of several of his top aides-in-waiting, the Post reported this week.

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Is New Hillary Clinton Super-PAC Pushing Legal Boundaries? - Bloomberg Politics



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Is New Hillary Clinton Super-PAC Pushing Legal Boundaries?

May 12, 2015 8:28 PM EDT

A new group will raise big-dollar donations to help the Democratic front-runner.



Photo by David J. Phillip / Getty Images



by Jennifer Epstein

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A second, semi-official super-PAC is being formed to help Hillary Clinton, and in an unusual twist, has announced plans to coordinate with the Democratic presidential front-runner's campaign.

The move is the latest manifestation of a new trend in 2016 politics: the outsourcing of routine campaign functions to outside groups that are permitted to raise money in unlimited amounts. Candidate committees are limited to donations of \$5,400 a campaign cycle from individuals. Last month, the Associated Press reported that all-but-declared Republican presidential candidate Jeb Bush will be running much of his campaign through a super-PAC.

Clinton's newest super-PAC ally, Correct the Record, is spinning off from American Bridge, another super-PAC that formed four years ago and that conducts opposition research on Republican presidential hopefuls. Correct the Record, which has been serving as a rapid-response team to defend Clinton since November 2013, is being recast as an independent super-PAC that will continue to serve as "a political research and communications war room," the group said Tuesday.

"We will be monitoring the activities of Correct the Record and the Clinton campaign very closely."

—Paul S. Ryan

What's unusual is that Correct the Record plans to coordinate with the Clinton campaign and potentially other federal campaigns and Democratic party committees—something that quickly drew skepticism from watchdogs who find it difficult to see how the group can function without running afoul of campaign finance laws. Those laws are designed to prevent committees that collect big-dollar contributions from having direct contact with campaigns.

Correct the Record's plans to coordinate with Clinton's team amount, at the very least, to a "campaign finance law boundary-pushing" arrangement, said Paul S. Ryan, senior counsel at the Campaign Legal Center. As a super-PAC, the group "cannot make any contributions to a candidate directly or in kind," he said.

Correct the Record's communications director, Adrienne Watson, defended its approach, arguing that "FEC rules specifically permit some activity—in particular, activity on an organization's website, in email, and on social media—to be legally coordinated with candidates and political parties."

She added: "This exception has been relied upon countless times by organizations raising non-federal money." The group's lawyer, who declined to be named for the record, pointed to nonprofit issue-focused groups like the National Rifle Association and the Sierra Club, which can communicate with candidates and convey their views through press releases or on websites, as playing a similar role.

If Correct the Record follows through on its plans to bulk up its existing rapid response and research structures, it could allow Clinton campaign to outsource some of the functions that have typically been part of presidential campaigns to a group that can collect dollars in much larger denominations than she can legally. That could mean that Clinton's campaign committee could focus its more funds elsewhere.

A Democratic lawyer supportive of the Correct the Record-Clinton campaign alliance dismissed the argument that the group's work would amount to an in-kind contribution, saying it's no different than a state political party doing rapid response to defend a presidential candidate.

Correct the Record is the second super-PAC to largely focus on boosting Clinton. The other is Priorities USA Action, the group formed in 2012 to support President Barack Obama's re-election campaign. That group will not coordinate with the Clinton campaign but the



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still there.

There's at least one preliminary hint that the new super-PAC has the Clinton campaign's blessing too: Correct the Record is represented by lawyers in the Washington office of Perkins Coie and the Clinton campaign's general counsel is Marc Elias, chair of the firm's political law practice.

Regardless of the legal precedents it cites for the coordination it plans with Clinton, Correct the Record will draw plenty of scrutiny. "We will be monitoring the activities of Correct the Record and the Clinton campaign very closely," Ryan said, and CLC will file complaints not only with the Federal Elections Commission but with the Justice Department, if it believes that campaign laws have been violated.

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Unlimited Money, Money, politics, War, Law, Democratic Party

POLITICO



Getty

Hillary Clinton backers defend link to PAC

By GABRIEL DEBENEDETTI | 5/15/15 8:11 PM EDT

When the pro-Hillary Clinton group Correct The Record announced on Tuesday that it would register itself as a super PAC, it brought an operation built by a devoted Clinton ally closer to the campaign itself — and potentially closer to the limits of campaign-finance laws that require separation between super PACs and campaign organizations.

The news was met with expressions of concern from some Republicans and campaign finance reformers about the group's coordination with Clinton's campaign, since they believed the group would be a standard super PAC. But it will actually be a hybrid PAC — a different kind of group

from an independent expenditure committee, commonly referred to as a "super PAC" — group officials told POLITICO on Friday.

Correct the Record, which plans to defend Clinton with online communications, will set up a "non-contribution account" and will not make independent expenditures such as buying advertisements that would cause it legal problems, it says. Nonetheless, Clinton allies said they still expect critics to file complaints about the plan to the Federal Election Commission.

The Tuesday announcement raised eyebrows among election lawyers and operatives with an eye on campaign spending. But while some said they were preparing formal complaints to the FEC, few expected any action amid a partisan divide on the six-member panel. While Democrats close to Clinton's operation insist that the maneuver is entirely legal, Republicans — some of whom are also using super PACs in novel ways in 2016 — have largely been silent.



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JOSH GERSTEIN

"There are a lot of political operatives out there who are just viewing the 2016 cycle as the wild west because the sheriff at the FEC is asleep, not enforcing the law. I have no doubt that's part of the calculus of many political operatives and players in this cycle," said Paul S. Ryan of Washington's Campaign Legal Center, who has already filed campaign finance complaints against Jeb Bush, Scott Walker, Rick Santorum, and Martin O'Malley this year — and who said he may file one against Clinton. But "rather than file complaints, if history is a guide, Republican operatives and their candidates may just jump on the bandwagon and do the same thing."

Before clarifying that the group would be a hybrid PAC, Correct the Record officials explained that since the group's work supporting Clinton is all free and online, it does not count as prohibited in-kind contributions to the Clinton campaign. Some critics claimed, however, that the exemption applies only to volunteers or other unpaid workers. Group staffers — who will be paid — explained they would be relying on an entirely separate pair of federal regulations that define coordinated communications, freeing them to use online posts.

One group official compared its activities to what happens when the National Republican Senatorial Committee puts out a press release in favor of Senate Majority Leader Mitch McConnell. That kind of supportive communication doesn't count as an in-kind contribution that would run the group into dangerous territory.



ALSO ON POLITICO

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ANNIE KARNI

"This is actually very clear cut and the FEC has repeatedly dismissed allegations regarding coordination of Internet communications," said the group's communications director, Adrienne Watson. "Republicans are trying to confuse the issue to create a story where none exists. As always, we're happy to correct the record."

The legal discussion has obscured the Clinton camp's reasons for wishing to have Correct the Record by its side as an independent group with which it can coordinate. Able to accept unlimited donations, Correct the Record — founded by Clinton ally David Brock — takes much of the burden off of the Democratic National Committee — run by Rep. Debbie Wasserman Schulz, who is regarded more coolly in Clinton circles — in trying to defend Clinton from partisan attacks.

Since the DNC must remain neutral during the Democratic primary, some Clinton allies had been worried the campaign would not have enough resources to fight back against Republican attacks until after the party's convention in 2016, assuming Clinton is the nominee. Correct the Record's new position alleviates this fear, and frees the party committee to work on down-ballot races.

Nonetheless, the embrace of outside groups has sparked criticism of Clinton in recent weeks. She has tacitly endorsed Priorities USA Action, a super PAC backing her presidential aspirations, even as she talks about reforming the campaign finance system while on the trail.



ALSO ON POLITICO

Hillary Clinton to headline Virginia event

GABRIEL DEBENEDETTI

Clinton has repeatedly floated the idea of a constitutional amendment that would "get unaccounted money" out of the political system — an idea that activists have pushed since the Supreme Court's Citizens United v FEC decision of 2010. Citizens United cleared the way for super PACs, which can accept unlimited money from sources that cannot contribute to campaigns, including corporations. Hybrid PACs were created after 2011's Carey v FEC decision.

As such, campaign finance watchers from both sides of the aisle have indicated they're keeping a skeptical eye on the activities of Correct the Record, which joins Priorities USA Action on the roster of high-profile PACs supporting Clinton's White House bid while being run by close Clinton allies.

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But Republicans are highly unlikely to file complaints for fear of inviting more scrutiny into their own practices, acknowledged Republicans and Democrats alike. Bush, for one, has already drawn fire for planning to run much of his campaign out of a super PAC, Right to Rise.

So complaints from groups like Ryan's, which aren't affiliated with candidates or parties, may remain the only formal ones dogging the Clinton camp for now.

"If Correct the Record gets away with what it is trying to do, what's left that a campaign can't outsource?" asked Ryan.

Tarini Parti contributed to this report.